

### **REMARKS**

Claims 1, 3, 5-10, 18-20, and 22 remain in the application. Claims 1, 18, and 22 are the only claims in independent form. Claims 2, 4, 11-17, and 21 have been canceled from the present application. The present independent claims have been amended in order to further clarify the present invention and place the application in condition for allowance.

Specifically referring to the Office Action, claims 1, 2, 5, 6, 18-20, and 22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,713,178 to Mallette (hereinafter, "the '178 patent"). According to the Office Action, the '178 patent discloses a single disposable apparatus for collecting and disposing liquid. However, the presently claimed invention includes limitations not at all disclosed or suggested by the '178 patent. More specifically, the '178 patent discloses a bed pan structure wherein a first inner tray is disposed within a second outer tray. The inner tray is enclosed within a wrapper folded upon itself to form a sleeve structure. Moreover, the sleeve is assembled from a sheet of waterproof material and the side edges of the sheet are folded over one another to enclose the first inner tray. (See column 1, lines 28-35 and the figures of the '178 patent). Finally, once the user fully sits upon the sleeve, the user will be in direct contact with any urine and/or excrement.

In contradistinction, the presently claimed invention is directed towards a bed pan vessel that includes sidewalls, a bottom wall, a seating surface, and an inner surface. The side walls space a user from any contents from within the vessel when the user sits upon the seating surface (See, Figures 1 and 4). The apparatus disclosed in the '178 patent does not disclose this limitation. Thus, when a person fully sits down upon the apparatus of the '178 patent, not only will contents be in contact with the user, but also the contents can be squeezed out of and spill from the apparatus. Therefore, containment of the waste will not occur and an inaccurate reading of urine and/or excrement output takes place. As a

result of the amendment to the claims, reconsideration of the rejection is respectfully requested.

Claims 1-3, 5-8, 18-20, and 22 also stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,070,277 to Thomas (hereinafter, "the '277 patent). According to the Examiner, the '277 patent discloses a single disposable apparatus for collecting and disposing liquid comprising a bed pan vessel including an annular rim constituting a seating surface and an inner surface; and absorption means fixedly attached to and disposed on the entire inner surface for absorbing and collecting liquids within the vessel.

In response to the outstanding rejection, Applicant has amended the presently pending independent claims to distinctly claim a single, disposable apparatus wherein the bed pan vessel includes side walls, a bottom wall, a seating surface, and an inner surface. The presently claimed apparatus and/or bed pan is not at all disclosed by the '277 patent. The '277 patent merely discloses a disposable bag for collecting liquids and not a bed pan vessel having all the limitations set forth in the pending independent claims. First, the '277 patent discloses a cup-shaped vessel that cannot support the weight of a person. Specifically referring to the disclosure of the '277 patent, the waste receptacle bag of the '277 patent was designed to provide a new waste receptacle bag that may be used by people who have difficulty sitting on a toilet. (See, column 2, lines 64-67). Therefore, based on an accurate reading of the '277 patent, the waste receptacle bag cannot be fully sat upon by a person. Instead, the '277 patent discloses that the rim portion of the waste receptacle bag is merely placed against the urogenital or perineal area of the individual to urinate and defecate. Furthermore, the walls of the bag or the rim portion of the waste receptacle bag do not space a user from contents (i.e., urine and/or excrement) deposited on the bottom of the bag when the user sits entirely upon the bag. Just as with the '178 patent, when a person fully sits down upon the waste receptacle bag of the '178 patent the contents will be in contact with the user and the contents can be

squeezed out of and spill from the waste receptacle bag. Therefore, containment of the waste will not occur and an inaccurate reading of urine and/or excrement output takes place.

The presently claimed invention is not a waste bag as set forth in the prior art; instead, it is an apparatus including a bed pan vessel having side walls, a bottom wall, a seating surface, and an inner surface, wherein the seating surface spaces a user from any contents from within the vessel when the user sits upon the seating surface. Reconsideration of the rejection is respectfully requested.

Claims 3 and 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the '178 patent. Additionally, claims 7 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the '178 patent in view of U.S. Patent No. 5,455,972 to Williams (hereinafter, "the '972 patent"). Furthermore, claims 9 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the '178 patent in view of GB 2224522 to Stevens (hereinafter, "the '522 patent"). In response thereto, the presently claimed invention is patentably distinct over the '178 patent as set forth in the above arguments and claim amendments. More specifically, the '178 patent does not disclose all the claimed structural limitations of the presently claimed invention. Moreover, such limitations are not at all suggested by the '178 patent. In other words, the '178 patent does not disclose a single, disposable apparatus including a bed pan vessel having side walls, a bottom wall, a seating surface, and an inner surface; and an absorption mechanism fixedly attached to and disposed on the inner surface of the vessel. Since the '178 patent does not teach all the claim limitations, a *prima facie* case of obviousness has not been established. Furthermore, the '972 patent is merely a disposable bedpan bag that covers an entire bedpan. Additionally, the '522 patent discloses an apparatus for collecting liquids including a vessel and absorption mechanism. The apparatus disclosed in the '522 patent is an apparatus having an absorption mechanism lining the bottom portion of the receptacle therein. There is no absorption mechanism or pad located or situated on the sides of the liner in order to prevent any type of spillage that may occur during transportation or any

other similar movement. There is no mechanism for preventing the spillage of any type of liquid from within the apparatus disclosed in the '522 patent. The structural limitations included in the claims of the presently claimed invention provide for an advantage over the cited prior art references and thus cannot be obvious in view of the '178 patent, taken alone, or in combination with the '972 patent or the '522 patent. Reconsideration of the rejection is respectfully requested.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the '277 patent. Additionally, claims 9 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the '277 patent in view of the '522 patent. In response thereto, the presently claimed invention is patentably distinct over the '277 patent as set forth in the above arguments and claim amendments. Again, not all of the claim structures of the presently claimed invention are disclosed in the '277 patent alone, or in view of the '522 patent. The presently claimed invention is also patentably distinct over the '522 patent as set forth in the above arguments and claim amendments. In other words, the '277 patent, the '522 patent, or any cited prior art references do not disclose a bed pan vessel including side walls, a bottom wall, a seating surface, an inner surface, and an absorption mechanism completely lining and covering the inner surface of the bed pan vessel. The presently claimed invention is therefore neither anticipated nor obvious in view of the '277 patent and/or the '522 patent. As a result, reconsideration of the rejection is respectfully requested.

The remaining dependent claims not discussed above are ultimately dependent upon at least one of the independent claims discussed above. No prior art reference makes up for the deficiencies of that reference as applied against the independent claims as no prior art reference discloses or suggests the invention as set forth in the claims as discussed in detail above.

In conclusion, it is respectfully submitted that the presently pending claims are in condition for allowance, which allowance is respectfully requested. Applicant respectfully requests to be contacted by telephone at (248) 539-5050 if any remaining issues exist.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

KOHN & ASSOCIATES, PLLC



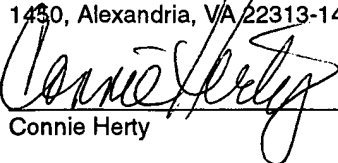
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